IN THE HIGH COURT OF JUDICATURE AT PATNA
CWJC No.5812 of 2002
M/S DHARAMPAL SATYAPAL LTD.&ANR
Versus
STATE OF BIHAR & ORS

For the Petitioners: Mr. Ramesh Kumar Agrwal &
Mr. A.N.Jha, Advocates
For the State: Mr. Anil Kumar,(GPII)
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6 1.2.2010 The present writ application has been listed under the 'Heading To Be Mentioned' on a prayer made on behalf of the petitioners in the light of the development that in yet another case relating to the petitioners on the question of demand raised upon them for a product known as Zafrani Zarda Division Bench has rendered its opinion in the case of M/s Dharampal Satyapal Ltd. & ors vrs. The State of Bihar & ors. (2009 (3) PLJR 895).

Submission of learned counsel is that it has been categorically held for the reasons indicated in the said decision of the Division Bench that Zafrani Zarda is not covered under the Act and in absence of any Quid Pro Quo any demand made on the Company for payment of market fee is beyond the pale of the authority's power under the Market Act. The operative portion covering the case of the petitioners is crystallized in paragraph 29(iii) of the said decision.

When the present writ application was filed the issues were two, one was market fee demanded on Tulsi Brand Zafrani Zarda and other is 'Catch Brand Spices'. Petitioner is not inclined to press the case for 'Catch Brand Spices' but he is pressing to the impugned demand contained in annexures 9 and 9/B which have been issued by the erstwhile Marketing Secretary

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for Musallahpur.

Since this issue is no longer res-integra the demand with regard to Zafrani Zarda raised by the respondent authority for demand of market fee in terms of annexure-9 and annexure-9/B stand quashed.

Needless to say that if the market fee is already paid to the respondents, then in terms of the decision referred to above in the case of M/s Dharampal Satyapal Ltd. (supra) the petitioner shall be entitled to refund of the same with interest at the rate of 9% from the date of the deposit till the date of payment.

This writ application is disposed of with the above direction.

RPS (Ajay Kumar Tripathi,J.)

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